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No. 93-1398

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1993

DAVID G. STAUFFACHER,

Petitioner,

v.

TELEDYNE CONTINENTAL MOTORS,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI

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April 13, 1994

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REPLY ARGUMENT

I. Respondent's positions (i) that Federal laws are not involved; (ii) that this case is fact-specific to Stauffacher and has no broad application; (iii) that there is no conflict between the highest Court of the State of Wisconsin and the United States Court of Appeals for the Seventh Circuit on the economic loss doctrine; and, (vi) that lack of damage evidence precludes Stauffacher from any remedies and from further review; are all wrong.

Contrary to Respondent's position, Federal laws are involved and are crucial to the resolution of this case. The FAA mandates, in the portions of 14 CFR 33 (1984) as identified in the Petition, certain durability and cooling

capabilities for airplane engine manufacturers. In particular, Respondent Teledyne's TSIO-520BE engine line is certified by Teledyne to the FAA to be subject to a 2000-hour engine life (TBO) requirement, and to have 25,000 foot density altitude and proper cooling capabilities at that altitude. [Teledyne's engine's supposed to be designed to comply with FAR {14 CFR} 33; TR.,1-A-83,84, expl. parenthetical added].

The record, however, clearly shows that Teledyne's engines repeatedly failed these requirements for Stauffacher and for many other Piper Malibu owners. Yet the economic loss doctrine and the fine-print remedy limitations and the "repair" and "replacement" options contained in the "Gold Medallion Warranty" completely shield Teledyne from these clear Federal safety standards as well as from tort

claims, unless you can produce a dead or mutilated plaintiff. ["Stauffacher wasn't injured or killed, and I am sure that Teledyne was very happy that nothing happened. Because as you say, its a different lawsuit if there's an injury." [Crabb, Dist. J, TR. 2-86; Petition Ap., p. 161-162]

This is wrong. This is not just wrong as to Stauffacher. As pointed out at Appellate argument, its only a matter of time before we have flying cars. This case has huge implications. Many States have developed variations upon the judicially constructed "economic loss doctrine", and have adopted similar warranty "limitation" provisions in each State's version of the Uniform Commercial Code. Further, this is not simply a legislative problem. Congress has already acted in 14 CFR 33 (1984). The clash, and

its a huge one, is between Federal FAA safety standards designed to protect the public on the one hand; and the combination of various judicially constructed "economic loss doctrine" theories and lawyers for aviation component manufacturers who draft exculpatory "repair" and "replacement" language in engine "warranties" on the other hand.

Its one thing to have "replacement" and "repair" options and remedy limitations for a manufacturer in a warranty when you have a product which operates in an environment that is not life threatening. It is quite another thing in the highly Federally regulated aviation industry. Could a manufacturer of an unsafe or unreliable line of nuclear reactors, which have not yet physically injured a particular purchaser, successfully hide

from tort litigation from that particular purchaser behind judically constructed economic loss doctrine theories and fine-print warranty "repair" and "replacement" remedy limitations? Incredibly, the case of Cincinnati Gas and Electric Company v. General Electric Co, 656 F. Supp. 49, 59 (S.D. Ohio 1986), applying the holding in East River Steamship Corp. v Transamerica Delaval, Inc., 476 U.S. 858 (1986), and upon which authority the District Court in the case at bar dismissed Stauffacher's strict liability claim [Pet. Ap., p. 63-73], would seem to allow Federal Courts to continue to disregard safety issues altogether. No personal injury, no remedy in strict liability for an unsafe situation? Why should there have to be a personal injury before the law recognizes liability and a duty of safe-design to an

aviation product purchaser?

At both trials in the District Court, on appeal in the Seventh Circuit, and even on Petition for Writ of Certiorari, Respondent appears unconcerned with the safety aspects of this aviation product. At some point, just exercising "repair" or "replacement" options in a warranty is a wrong in itself.

Northridge Co. v. W.R. Grace and Co., 162 Wis. 2d. 918, 471 N.W. 2d. 179 (1991) was concerned with the safety issues. The Seventh Circuit, however, will not adequately deal with safety issues because of the hard-line, no-tort position on the economic loss doctrine in Miller v. U.S. Steel Corp., 902 F.2d 573 (7th Cir., 1990). The Seventh Circuit erred in not certifying the case at bar to the Wisconsin Supreme Court.

Respondent's BR., at page 8, incorrectly attempts to distinguish the Northridge case from the case at bar. Petitioner's Original Complaint, p. 14, para 35, alleges that Teledyne is strictly liable for damage to the airplane and engine equal to the value decrease as a result of Teledyne's product and conduct. Petitioner alleges that Teledyne's engine and conduct creates a serious risk of harm <Pl. Orig. Comp., p. 14>, and that Teledyne, as an airplane engine manufacturer, has a special duty to the public, including Stauffacher. <Pl. Orig. Comp., p. 15>

Plaintiff also alleges loss of value of the Piper Malibu, similar to the allegations of loss of value to the shopping center in Northridge v. W.R. Grace and Co, 162 Wis. 2d. 918, 930; 471 N.W. 2d, 179, 183-84 (1991). In

Northridge, 162 Wis. 2d., at 185, the Wisconsin Supreme Court points out that where there is alleged a product which causes an unreasonable risk of injury to person or property and which physically harms the value of property (i.e., diminution of value of property which the defective product accompanies), that tort law imposes an obligation upon the manufacturer in strict liability and that public policy demands that the manufacturer and seller bear the responsibility for such injury to property.

Since Stauffacher alleged serious and real risk of future injury as well as loss of value to the airplane as a result of the defective engine and engine line, there should be a cause of action in strict liability. Northridge v. W.R. Grace, 162 Wis. 2d., at 933-934; 471 N.W. 2d., at

185-186, (1991). Further, Stauffacher should have been permitted to pursue both "types" of "economic" damage claims: (i) for the types of damage in breach of warranty for soley "economic loss" as defined in Northridge-loss of bargain and consequential damange (i.e., inferior quality of engine and engine not satisfactory for its intended purpose; and, (ii) also, under a concurrent theory of strict liability, for diminution of value of Stauffacher's Piper Malibu airplane.

As an example of this second type of damage evidence offered at the second trial, even though this type of property damage is "invisible" to the eye as was the asbestos problem in Northridge, the market rejection of the engine is reflected in the airplane's $40,000 value diminution solely due to the fact that the

Teledyne TS10 520 BE engine cannot (and was perceived by the market to not) last for the certified 2000 hours. [Mid-America Aviation owner Rittenhouse testified to the effect that the airplane was worth $40,000 more if the Teledyne engine would last 2000 hours as certified. (This is not the "guesstimate" which was referred to at Respondent's Brief, at page 7, which was only made in the context of Rittenhouse's testimony relating to additional operating costs, not as to the $40,000 market value difference.)]

Respondent's 'lack of damages' argument misses another point. Even if Stauffacher had failed to prove actual damages, he was entitled to a declaration of unconscionability as to the limitations in the Gold Medallion Warranty. [The Gold Medallion Warranty (Reply Ap., p. 2-6, Resp's. Appellate Br., Ap., p. 2-6), with

its fine-print limitations, is only referenced in the original Piper sales contract warranty (Reply Ap., p. 1-2; Resp.'s Appellate Br., Ap., p. 1-2).

The District Court judge specifically found, at the close of the first trial, that: "By that time (1990), he (Stauffacher) was well aware that defendant's (Teledyne's) engines did not reach 2000 flight hours before needing overhaul; he had owned three engines that had not reached that time before needing major repairs".[Crabb, Dist. J., Op. 2/26/92, p. 9-10; Petition App., p.90-92] {parantheticals added}.

This is a finding of the District Court that these TSI0-520BE airplane engines will not reach the 2000 hour TBO which Teledyne certified to the FAA. A warranty which allows Teledyne the option to repair

or replace engines with other engines which also don't reach the TBO should be declared unconscionable as a matter of law.* Such a precedent would clarify existing law and prevent circumvention of the special duty of an airplane engine manufacturer to produce a safe and reliable aviation product.

April 13, 1994

Respectfully submitted,

John C. Widule, Counsel of Record, Counsel of Petitioner
P.O. Box 108
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414-785-1752

*cf., Dist. Ct., Pet. Ap., p. 153-162.

REPLY APPENDIX A1-A6

Exhibit #1 [Piper Sales Warranty]....A1-A2

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Exhibit #3 [Gold Medallion Warranty].A5-A6

First Amended Complaint Exhibit #2 - (p. 1 of 2)

Model PA46-310P
Serial Number 4608052

PIPER AIRCRAFT CORPORATION LIMITED WARRANTY

Piper Aircraft Corporation (Piper) warrants each new aircraft it manufactures and each new part and component sold by Piper (except those excluded by Section 4, below) to be free from defects in material and workmanship, provided the aircraft, parts and components are operated and maintained in accordance with Piper's published operating and maintenance instructions applicable thereto. This warranty will expire 360 days or 1000 hours, whichever occurs first, after delivery to the first user of the warranted product, except that, as to service parts sold for installation in Piper aircraft in service, this warranty will expire 180 days after delivery to the first user. This warranty is subject to the terms and conditions stated below:

1. Warrantor: This warranty is granted by Piper Aircraft Corporation, P.O. Box 1328, Vero Beach, FL 32961-1328 USA. NOTE: All warranty work must be accomplished by an authorized Piper facility rated to perform maintenance on the specified model of aircraft.

2. Parties to Whom Warranty Is Extended: This warranty shall extend to any buyer and to any person to whom the product is transferred during the duration of this warranty.

3. Parts and Components Covered: All parts and components installed by Piper are covered by this warranty except those parts and components excluded by Section 4, below. However, if performed by Piper, the associated installation work on parts and components excluded by Section 4 is covered by this warranty.

4. Parts and Components Not Covered: The following parts and components are not covered by this warranty:

   a) engines, engine accessories, propellers, avionics (i.e. NAV/COMM systems and related indicators) and automated flight systems. Any warranty of these parts and components is provided by the original manufacturer; vendor factory publications are made available prior to sale and furnished with each new aircraft;

   b) any part or component that shall have been subject to misuse, negligence or accident;

   c) expendable items that would normally be replaced within the warranty period, (i.e., air filters, oil filters, brake linings, and brake discs.);

   d) any part or component that shall have deteriorated from extraordinary wear or exposure.

5. Procedure for Obtaining Performance Under This Warranty: In order to qualify under this warranty, the owner must notify an authorized Piper facility of the defect within thirty (30) days of discovery of the defect and promptly deliver the aircraft or defective part or component to an authorized Piper Service Center, or if requested by Piper, to Piper's factory. Upon receipt of such aircraft, part or component, if it is found not to be defective in material or workmanship, Piper shall notify the owner of such fact and request instructions for the return of such aircraft, part or component to the owner. All cost of transporting aircraft, parts or components to and from the Piper factory or a repair facility shall be paid by the owner.

6. Remedy: If, within the duration of this warranty, a part or component or installation work covered by this warranty proves to be defective in material or workmanship, then the sole and exclusive remedy and Piper's sole liability shall be, at Piper's option, the repairing of the defective part or component or replacement of the same; parts and labor (to the extent allowed under Piper's published schedules) shall be at the expense of Piper. The replacement part or component supplied pursuant to this warranty shall be warranted only for the remainder of the

Accepted
Purchaser Sign _____ Date 6/1/77

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First Amended (comp. E. ¼ #2 - (p. 20 ÷ 2)

warranty period applicable to the defective part or component.

Design Changes: Piper reserves the right to make changes in the design or material of its products without incurring any obligation to incorporate such changes in any product previously manufactured.

Exclusions and Disclaimers: This warranty does not extend to normal maintenance services such as engine tune-up, cleaning, control rigging, brake and other mechanical adjustments and maintenance inspections or to any defect due to the negligence of others, failure to operate or maintain the aircraft and associated parts in accordance with the operating and maintenance instructions furnished by Piper, unreasonable use, accidents, alterations or wear and tear.

No other warranty, whether of merchantability, fitness or otherwise, expressed or implied in fact or by law, is given by Piper with respect to any new airplane, part or component, or with respect to any work, and no other or further obligation or liability shall be incurred by Piper by reason of the manufacture, sale or lease of any airplane, part or component or of its use, whether on grounds of breach of warranty, negligence of manufacture, strict liability or otherwise. In the event that the provision relieving Piper of liability for any reason be held ineffective, the remainder of this paragraph shall remain in full force and effect. The obligation of Piper set forth in Section 8, above, shall be the exclusive remedy for any breach of warranty. In no event shall Piper be liable for any general, consequential or incidental damages relating to property damage or economic loss, including without limitation any damages for loss of use or loss of profits. No Distributor, Dealer, Sales Center, Flite Center, agent or employee of Piper is authorized to extend any other or further warranty or incur any additional obligation on Piper's behalf in connection with the sale of its products.

PIPER
A LEAR SIEGLER COMPANY
PIPER AIRCRAFT CORPORATION
Vero Beach, FL 32961-1328 U.S.A.

SUMMARY
Warranty Time Period
Warranty Responsibility (Warrantor)

Equipment	Time Period	Warrantor
A. Airframe and its components (See exclusions in Section 4 of this Warranty.)	The lesser of 360 days or 1000 hours	Piper
B. Engines Lycoming Teledyne Continental Garrett Pratt & Whitney	* The lesser of 360 days or 1000 hours * The lesser of 360 days or 1000 hrs. * The lesser of 360 days or 1000 hours. * The lesser of 360 days or 1000 hours.	Lycoming Teledyne Continental Garrett Pratt & Whitney
C. Avionics and AutoPilots	* 360 days	Applicable Avionics and Autopilot Manufacturers
D. Purchased Replacement Parts Sold by Piper (See exclusions in Section 4 of this Warranty).	180 days	Piper
E. Propeller	See applicable manufacturers warranty.	Applicable propeller manufacturer

* See Applicable vendor warranty materials for conditions and limitations.

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schedules published by Teledyne Continental Motors will equal the amount of the scheduled transportation allowance divided by the total number of hours of warranty coverage (TBO) and then multiplied by the total number of hours on the defective engine or part as defined in paragraph 2.

6. This warranty applies only to engines in which parts manufactured or supplied by Teledyne Continental Motors or parts manufactured pursuant to an FAA Parts Manufacturer Approval have been used, and nothing contained herein should be construed as a warranty by Teledyne Continental Motors of any part not manufactured or supplied by Teledyne Continental Motors. Teledyne Continental Motors accepts no responsibility for the failure of any part which it does not manufacture or supply. The use of FAA-PMA replacement parts will not affect the warranty on any Teledyne Continental Motors parts. Teledyne Continental Motors will not defend product liability or tort claims arising out of the failure of any part not manufactured by Teledyne Continental Motors.

7. This warranty also applies only to engines on which the inspection, maintenance and operating instructions and recommendations contained in the appropriate operator's manual and applicable service bulletins have been complied with. Performance of recommended inspections and maintenance must be documented by appropriate logbook entries and the logbook must accompany any engine being returned for warranty consideration.

8. This warranty does not apply to any engine or part manufactured or supplied by Teledyne Continental Motors which has been subject to misuse, neglect or accident or which has been installed, repaired, maintained, or altered in any way that in the judgement of Teledyne Continental Motors has adversely affected the condition of the engine or which has been operated beyond factory recommendations (such as, but not limited to, RPM, temperature, manifold pressure, fuel flow, and proper system adjustment).

9. The provisions of this warranty do not apply to normal maintenance service (such as engine tune ups, adjustments, inspections, etc.) or to the replacement of normal service items (such as spark plugs, filters, hoses, belts, etc.).

10. Teledyne Continental Motors reserves the right to change any engine or part specifications or prices without incurring any responsibility with regard to engines or parts previously sold or replaced.

11. THE SOLE AND EXCLUSIVE REMEDY UNDER THIS WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AS SPECIFIED ABOVE. THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED. SPECIFICALLY, BUT WITHOUT LIMITATION, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL TELEDYNE CONTINENTAL MOTORS BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY DEFECT IN ANY ENGINE OR PART, ARISING OUT OF THE FAILURE OF ANY ENGINE OR PART TO OPERATE PROPERLY, OR ARISING OUT OF ANY BREACH OF THE WARRANTY MADE HEREIN. No person is authorized to give any other warranty or to assume any additional obligation or liability on behalf of Teledyne Continental Motors.

TELEDYNE CONTINENTAL MOTORS
Aircraft Products Division

CONTINENTAL® AIRCRAFT ENGINES

GOLD MEDALLION WARRANTY

ELITE COVERAGE

FOR ENGINE MODEL _____

S/N (L) _____ S/N (R) _____

INSTALLED _____ YR. _____

REGISTRATION _____

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CONTINENTAL AIRCRAFT ENGINE WARRANTY

The Teledyne Continental Motor engine models identified on the front cover of this warranty card are warranted as follows:

1. For a period of 12 months or 1000 hours of operation, whichever occurs first, after the date the engine is first operated for any use other than necessary flight test and required ferry or delivery flight by the most direct route, Teledyne Continental Motors will at its option repair or replace on an exchange basis any engine or part manufactured or supplied by it which within the applicable 12 months or 1000-hour period is returned to a Teledyne Continental Motors Distributor authorized to handle the engine covered by this warranty and which upon examination is found to the satisfaction of Teledyne Continental Motors to be defective in material or workmanship.

2. After the expiration of the applicable 12 month or 1000 hour period described above and before the expiration of the recommended time between overhaul (TBO) for the applicable engine model or the number of months equivalent to the TBO divided by 40 hours per month, whichever occurs first, Teledyne Continental Motors will at its option repair or replace on an exchange basis any engine or part manufactured or supplied by it which, is found to the satisfaction of Teledyne Continental Motors to be defective in material or workmanship. When repair or replacement is made under this paragraph 2 the owner will pay a net price for a new engine or part utilized in effecting such repair or replacement which will equal the current flat price of the replacement engine or part divided by the total number of hours of warranty coverage (TBO) and then multiplied by the total number of hours on the repaired or replaced engine. In applying the above formula the number of hours on the repaired or replaced engine will be actual logbook hours, recorded tachometer hours or time accrued at forty (40) hours per month from the date of commencement of the warranty period specified above, whichever is greatest. During this period Teledyne Continental Motors reserves the right at its option to replace the defective engine or part with either a new or rebuilt engine or part. During this period Teledyne Continental Motors will not assume any responsibility for the repair or replacement of engine accessories, i.e. parts which have been purchased by Teledyne Continental Motors from a manufacturer as a complete and finished unit under the manufacturer's part number and included in the assembly of an engine without altering the unit (e.g. magnetos, starters, alternators, ignition harness, turbochargers, etc.).

3. Teledyne Continental Motors will pay for reasonable labor costs associated with repairs or replacements under this warranty, and for "trouble-shooting" costs associated with identifying the need for such repairs or replacements, when coordinated through a Teledyne Continental Motors Distributor. The amount of repair and replacement labor costs allowed will be in accordance with warranty labor allowance schedules published by Teledyne Continental Motors. The amount of "trouble-shooting" costs allowed will be the reasonable costs under the circumstances of identifying the need for such repairs or replacements, but in no event will the "trouble-shooting" costs allowed exceed fifteen percent (15%) of the labor costs associated with such repairs or replacements allowed by Teledyne Continental Motors. No "trouble-shooting" cost allowance will be made where the need for repairs or replacements is identified in the course of overhaul, routine maintenance or on the basis of an obvious defect.

Labor costs associated with repairs or replacements under paragraph 2 of this warranty and any "trouble-shooting" costs allowed with respect to such repairs or replacements will be prorated, with the owner paying a portion. The portion paid by the owner will equal the total labor and trouble-shooting costs allowed divided by the total number of hours of warranty coverage (TBO) and then multiplied by the total number of hours on the defective engine as defined in paragraph 2.

4. Repair or replacement of any engine or part under this warranty will not extend the period of warranty coverage set forth above.

5. Teledyne Continental Motors will not assume any responsibility for transportation costs in connection with the repair or replacement of any engine or part under this warranty, except in an amount specified in the transportation allowance schedule published by Teledyne Continental Motors when such transportation has been expressly authorized by Teledyne Continental Motors, the engine or part has been shipped prepaid to the repair facility designated by Teledyne Continental Motors, and the engine or part is found to the satisfaction of Teledyne Continental Motors to be defective in material or workmanship.

Responsibility for transportation costs associated with the repair or replacement of an engine or part under paragraph 2 of this warranty, if assumed by Teledyne Continental Motors under the conditions set out above, will be prorated, with a reduction in the amount payable by Teledyne Continental Motors in accordance with the following formula: The amount of the reduction in the allowable transportation expense as specified in the transportation allowance

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Aircraft Products Division

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schedules published by Teledyne Continental Motors will equal the amount of the scheduled transportation allowance divided by the total number of hours of warranty coverage (TBO) and then multiplied by the total number of hours on the defective engine or part as defined in paragraph 2.

6. This warranty applies only to engines in which parts manufactured or supplied by Teledyne Continental Motors or parts manufactured pursuant to an FAA Parts Manufacturer Approval have been used, and nothing contained herein should be construed as a warranty by Teledyne Continental Motors of any part not manufactured or supplied by Teledyne Continental Motors. Teledyne Continental Motors accepts no responsibility for the failure of any part which it does not manufacture or supply. The use of FAA-PMA replacement parts will not affect the warranty on any Teledyne Continental Motors parts. Teledyne Continental Motors will not defend product liability or tort claims arising out of the failure of any part not manufactured by Teledyne Continental Motors.

7. This warranty also applies only to engines on which the inspection, maintenance and operating instructions and recommendations contained in the appropriate operator's manual and applicable service bulletins have been complied with. Performance of recommended inspections and maintenance must be documented by appropriate logbook entries and the logbook must accompany any engine being returned for warranty consideration.

8. This warranty does not apply to any engine or part manufactured or supplied by Teledyne Continental Motors which has been subject to misuse, neglect or accident or which has been installed, repaired, maintained, or altered in any way that in the judgement of Teledyne Continental Motors has adversely affected the condition of the engine or which has been operated beyond factory recommendations (such as, but not limited to, RPM, temperature, manifold pressure, fuel flow, and proper system adjustment).

9. The provisions of this warranty do not apply to normal maintenance service (such as engine tune-ups, adjustments, inspections, etc.) or to the replacement of normal service items (such as spark plugs, filters, hoses, belts, etc.).

10. Teledyne Continental Motors reserves the right to change any engine or part specifications or prices without incurring any responsibility with regard to engines or parts previously sold or replaced.

11. THE SOLE AND EXCLUSIVE REMEDY UNDER THIS WARRANTY IS LIMITED TO REPAIR OR REPLACEMENT AS SPECIFIED ABOVE. THERE ARE NO OTHER WARRANTIES EXPRESSED OR IMPLIED. SPECIFICALLY, BUT WITHOUT LIMITATION, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL TELEDYNE CONTINENTAL MOTORS BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY DEFECT IN ANY ENGINE OR PART, ARISING OUT OF THE FAILURE OF ANY ENGINE OR PART TO OPERATE PROPERLY, OR ARISING OUT OF ANY BREACH OF THE WARRANTY MADE HEREIN. No person is authorized to give any other warranty or to assume any additional obligation or liability on behalf of Teledyne Continental Motors.

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Teledyne Industries, Inc.

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CONTINENTAL®
AIRCRAFT ENGINES

GOLD MEDALLION WARRANTY

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CONTINENTAL AIRCRAFT ENGINE WARRANTY

Each new aircraft engine manufactured by Teledyne Continental Motors and supplied as original equipment in a 1980 model aircraft and each new or rebuilt aircraft engine shipped from Teledyne Continental Motors' plant after January 1, 1980 is warranted as follows:

1. For a period of 6 months or 240 hours of operation, whichever occurs first, after the date the engine is first operated for any use other than necessary flight test and require - ferry or delivery flight by the most direct route, Teledyne Continental Motors will at its option repair or replace on an exchange basis any engine or part manufactured or supplied by it which within the applicable six months or 240 hour period is returned to a Teledyne Continental Motors Distributor authorized to handle the engine covered by this warranty and which upon examination is found to the satisfaction of Teledyne Continental Motors to be defective in material or workmanship.

2. After the expiration of the applicable six month or 240 hour period described above and before the expiration of the recommended time between overhaul (TBO) for the applicable engine model or the number of months equivalent to the TBO divided by 40 hours per month, whichever occurs first, Teledyne Continental Motors will at its option repair or replace on an exchange basis any engine or part manufactured or supplied by it which is found to the satisfaction of Teledyne Continental Motors to be defective in material or workmanship. When repair or replacement is made under this paragraph 2 the owner will pay a net price for a new engine or part utilized in effecting such repair or replacement which will equal the current list price of the replacement engine or part divided by the total number of hours of warranty coverage (TBO) and then multiplied by the total number of hours on the repaired or replaced engine. In applying the above formula the number of hours on the repaired or replaced engine will be actual logbook hours, recorded tachometer hours or time accrued at forty (40) hours per month from the date of commencement of the warranty period specified above, whichever is greatest. During this period Teledyne Continental Motors reserves the right at its option to replace the defective engine or part with either a new or rebuilt engine or part. During this period Teledyne Continental Motors will not assume any responsibility for the repair or replacement of engine accessories, i.e. parts which have been purchased by Teledyne Continental Motors from a manufacturer as a complete and finished unit under the manufacturer's part number and included in the assembly of an engine without altering the unit (e.g. magnetos, starters, alternators, ignition harness, turbochargers, etc.).

3. Teledyne Continental Motors will pay for reasonable labor costs associated with repairs or replacements under this warranty, and for "trouble shooting" costs associated with identifying the need for such repairs or replacements, when coordinated through a Teledyne Continental Motors Distributor. The amount of repair and replacement labor costs allowed will be in accordance with warranty labor allowance schedules published by Teledyne Continental Motors. The amount of "trouble shooting" costs allowed will be the reasonable costs under the circumstances of identifying the need for such repairs or replacements, but in no event will the "trouble shooting" costs allowed exceed fifteen percent (15%) of the labor costs associated with such repairs or replacements allowed by Teledyne Continental Motors. No "trouble shooting" cost allowance will be made where the need for repairs or replacements is identified in the course of overhaul, routine maintenance or on the basis of an obvious defect.

Labor costs associated with repairs or replacements under paragraph 2 of this warranty and any "trouble shooting" costs allowed with respect to such repairs or replacements will be prorated, with the owner paying a portion. The portion paid by the owner will equal the total labor and trouble shooting costs allowed divided by the total number of hours of warranty coverage (TBO) and then multiplied by the total number of hours on the defective engine as defined in paragraph 2.

4. Repair or replacement of any engine or part under this warranty will not extend the period of warranty coverage set forth above.

5. Teledyne Continental Motors will not assume any responsibility for transportation costs in connection with the repair or replacement of any engine or part under this warranty, except in an amount specified in the transportation allowance schedules published by Teledyne Continental Motors when such transportation has been expressly authorized by Teledyne Continental Motors, the engine or part has been shipped prepaid to the repair facility designated by Teledyne Continental Motors, and the engine or part is found to the satisfaction of Teledyne Continental Motors to be defective in material or workmanship.

Responsibility for transportation costs associated with the repair or replacement of an engine or part under paragraph 2 of this warranty, if assumed by Teledyne Continental Motors under the conditions set out above, will be prorated, with a reduction in the amount payable by Teledyne Continental Motors in accordance with the following formula. The amount of the reduction in the allowable transportation expense as specified in the transportation allowance

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